

Benjamin I VandenBerghe, WSBA #35477
Henry G. Ross, WSBA #51591
Montgomery Purdue Blankinship & Austin PLLC
5500 Columbia Center
701 Fifth Avenue
Seattle, WA 98104-7096
Telephone: 206-682-7090
Fax: 206-625-9534
E-Mail: biv@mpba.com
E-Mail: hross@mpba.com
*Attorneys for Defendants Mao Hua Chen;
18 Paradise, L.L.P.; Mount Tai Investment Inc.; and
Mount Emei Investment Inc.*

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON (SEATTLE)**

SCOTT HILLIUS; TOM STAEHR;
DANIEL and SONJA LYONS;
DOUGLAS and ANGELIQUE
SCARLETT; MARK MIEDEMA; MARK
and CHERI HOLMES; STEVEN and
LISA ZEHR,

Plaintiffs,

v.

MAO HUA CHEN; 18 PARADISE LLP;
MOUNT TAI INVESTMENT INC.;
MOUNT EMEI INVESTMENT INC.;
WILLIAM (MICK) O'BRYAN; JOSH
WILLIAMS; MJ MANAGEMENT, LLC;
and THE CITY OF LYNDEN,

Defendants.

NO.

NOTICE OF REMOVAL

(Clerk's Action Required)

Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, defendant 18 Paradise, L.L.P. ("Removing Defendant") hereby removes the subject action from the Whatcom County Superior Court, State of Washington, to the United States District Court for the Western District of Washington at Seattle, on the following grounds:

NOTICE OF REMOVAL

- 1

(Case No.)

MPBA{21493/0001/02230167-4}

MONTGOMERY PURDUE BLANKINSHIP & AUSTIN PLLC

ATTORNEYS AT LAW

5500 COLUMBIA CENTER

701 FIFTH AVENUE

SEATTLE, WASHINGTON 98104-7096

(206) 682-7090; FACSIMILE (206) 625-9534

1. Background. Plaintiffs served Removing Defendant on May 13, 2020, with a Summons and Complaint, to be filed in the Whatcom County Superior Court, State of Washington. Plaintiffs filed the Summons and Complaint on May 29, 2020. The Summons, Complaint, and Case Information Cover Sheet constitute the entire superior court record and are attached hereto as Exhibit A, Exhibit B, and Exhibit C, respectively.

2. Timeliness. Removing Defendant is timely filing this Notice of Removal under 28 U.S.C. § 1446(b) within 30 days of Plaintiffs' service of the Complaint and Summons on Removing Defendant.¹

3. Federal Claims. In the Complaint, Plaintiffs assert claims against Removing Defendant and other defendants under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968 ("RICO"). See Complaint ¶¶ 161-178.

4. Federal Question and Supplemental Jurisdiction. This Court has original jurisdiction over the RICO cause of action under 28 U.S.C. § 1331 because there is a question arising under RICO, a federal statute. The Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over all remaining claims because they are part of the same case or controversy and arise out of the same nucleus of operative facts.

5. Removal Jurisdiction. Pursuant to 28 U.S.C. § 1441, *et seq.*, this matter may be removed from the Whatcom County Superior Court, State of Washington to the United States District Court for the Western District of Washington.

6. Venue. The United States District Court for the Western District of Washington at Seattle is the federal court embracing the state court where Plaintiffs brought the state court action, Whatcom County Superior Court. Venue is therefore

¹ Removing Defendant reserves all objections to service.

proper in the United States District Court for the Western District of Washington at Seattle pursuant to 28 U.S.C. § 1441(a) and 28 U.S.C. § 128(b).

7. Consent. Defendants Mao Hua Chen, Mount Tai Investment Inc., and Mount Emei Investment Inc.² have not yet been served. However, for avoidance of doubt, they have consented to this removal as reflected in the consent to removal attached hereto as **Exhibit D.** Defendants William O'Bryan, Josh Williams, and MJ Management, LLC have been served and all three defendants have consented to this removal as reflected in the consent to removal attached hereto as **Exhibit E.**

8. City of Lynden. By exchange of voicemails on June 4, 2020, Robert Carmichael, City Attorney for defendant City of Lynden, advised the undersigned counsel that the City of Lynden had not yet been served. Therefore, the City of Lynden need not consent to this removal. *Emrich v. Touche Ross & Co.*, 846 F.2d 1190, 1193 (9th Cir. 1988) (“[A] party not served need not be joined in a petition for removal.”) (internal quotation omitted). Moreover, the Complaint does not seek any affirmative relief against the City of Lynden, which makes the City of Lynden a nominal defendant that need not consent to this removal. See Complaint ¶ 16.

9. Notice to Plaintiffs & Notice in State Court. Notice of this removal will promptly be filed with the Whatcom County Superior Court, State of Washington and served upon all parties.

10. Reservation. Removing Defendant reserves all objections to Plaintiffs' claims.

² In 2015, defendants Mount Tai Investment Inc. and Mount Emei Investment Inc. changed their names to North America Chang Jiang 2 Inc. and North America Chang Jiang 3 Inc., respectively. These defendants are referred to herein as they are in the Complaint and caption to avoid confusion. These defendants reserve all arguments related to this misidentification.

1 WHEREFORE, Removing Defendant, by and through its undersigned counsel,
2 removes the subject action from the Whatcom County Superior Court, State of
3 Washington to this United States District Court, Western District of Washington, at
4 Seattle.

5 DATED this 11th day of June, 2020.

6
7 MONTGOMERY PURDUE BLANKINSHIP &
8 AUSTIN PLLC

9
10 By: s/ Benjamin I. VandenBerghe

11 Benjamin I. VandenBerghe

12 WSBA #35477

13 701 Fifth Avenue, Suite 5500

14 Seattle, WA 98104

15 biv@mpba.com

16 (206) 682-7090

17 Fax: 206-625-9534

18
19 By: s/ Henry G. Ross

20 Henry G. Ross

21 WSBA #51591

22 701 Fifth Avenue, Suite 5500

23 Seattle, WA 98104

24 hross@mpba.com

25 (206) 682-7090

26 Fax: 206-625-9534

*Attorneys for Defendants Mao Hua Chen;
18 Paradise, L.L.P.; Mount Tai
Investment Inc.; and Mount Emei
Investment Inc.*

NOTICE OF REMOVAL

- 4

(Case No.)

MPBA{21493/0001/02230167-4}

MONTGOMERY PURDUE BLANKINSHIP & AUSTIN PLLC

ATTORNEYS AT LAW

5500 COLUMBIA CENTER

701 FIFTH AVENUE

SEATTLE, WASHINGTON 98104-7096

(206) 682-7090; FACSIMILE (206) 625-9534

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing and accompanying exhibits has been filed electronically on the **11th day of June, 2020**. Parties may access this filing through the Court's electronic filing.

None.	
-------	--

The undersigned further certifies that a true copy of the foregoing and accompanying exhibits was served on the following parties via email and First Class, U.S. Mail, postage prepaid, on the **11th day of June, 2020**, properly addressed as follows:

<u>For Defendant Josh Williams, William O'Bryan, and MJ Management, LLC</u> Buri Funston Mumford & Furlong, PLLC Philip Buri 1601 F Street Bellingham, WA 98225 philip@burifunston.com	<u>For the City of Lynden</u> Carmichael Clark P.S. Robert Carmichael 1700 D Street Bellingham, WA 98225 bob@carmichaelclark.com
<u>For Plaintiffs</u> Andersson Cross Border Law Corporation K. David Andersson R. Dallan Bunce 1305 11th Street Suite 304 Bellingham, WA 98225 kda@acblc.ca dallan.bunce@acblc.ca	<u>For Plaintiffs</u> Davis Leary PLLC Matthew Davis 3233 56th PI SW Seattle, WA 98116-3105 matthew@davisleary.com

By: s/ Henry G. Ross

Henry G. Ross
 WSBA No. 51591

*Attorneys for Defendants Mao Hua Chen;
 18 Paradise, L.L.P.; Mount Tai
 Investment Inc.; and Mount Emei
 Investment Inc.*

NOTICE OF REMOVAL

- 5

(Case No.)

MPBA{21493/0001/02230167-4}

MONTGOMERY PURDUE BLANKINSHIP & AUSTIN PLLC

ATTORNEYS AT LAW

5500 COLUMBIA CENTER

701 FIFTH AVENUE

SEATTLE, WASHINGTON 98104-7096

(206) 682-7090; FACSIMILE (206) 625-9534